



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,568	03/11/2004	Perry A. Cohagan	03292.101800.2	2567
66569	7590	03/10/2009	EXAMINER	
FITZPATRICK CELLA (AMEX) 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				ALVAREZ, RAQUEL
ART UNIT		PAPER NUMBER		
3688				
			MAIL DATE	DELIVERY MODE
			03/10/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/708,568	COHAGAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Raquel Alvarez	3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 December 2008.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

1. This office action is in response to communication filed on 12/9/2008.
2. Claims 1-21 are presented for examination.

### **Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-21 rejected under 35 U.S.C. 103(a) as being unpatentable over Brizendine et al. (6,484,147 hereinafter Brizendine) in view of Scroggie et al. (5,970,469 hereinafter Scroggie).

With respect to claims 1-3, 11, 14 -15, 17, 19 Brizendine teaches a method for facilitating a transfer points between at least two loyalty accounts (Abstract). Maintaining a database for storing at least one loyalty points in at least one loyalty account corresponding to at least one consumer (Figure 3, 300); receiving a transfer request to transfer a number of loyalty points from a first loyalty account to at least a second loyalty account as a gift (i.e. member 130 request to load points to member 120)(event 902); determining loyalty points requested for transfer and acquiring data related to loyalty point balance of a first loyalty account (event 910); deducting a portion of loyalty point balance of said first loyalty account and crediting the loyalty point balance of said second loyalty account (see Figure 9).

Brizendine doesn't specifically teach that the loyalty account is associated with a geographic area. On the other hand, Scroggie teaches the user required to enter his or her **zip code** in order to receive location-dependent offers (see Figure 3). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the teachings of Scroggie of geographic area points/offers/incentives in the loyalty account of Brizendine because such a motivation would allow to better target the offers of Brizendine based on the market area that the customer resides in.

Claim 4 further recites determining if there are any restrictions or limitations on said transfer (i.e. determining if the account is that of a minor in order to notify the parent/guardian of the points withdrawn)(See Figure 14).

With respect to claim 5, Brizendine further teaches a certain time period (i.e. expiration date) where the loyalty account becomes invalid)(col. 6, lines 59-64).

With respect to claim 6, Brizendine further teaches converting a portion of said loyalty points to a monetary value (step 908).

Claim 7 further recites calculating an exchange rate between geographic areas. Official Notice is taken that it is old and well known to have exchange rates and conversion rates between geographic areas. For example, when traveling overseas and the like, the customer is presented with a list of currency and their corresponding

conversion rate in order to provide and aid the customer with the calculation of how much money they will receive for exchanging to the area/geographic currency rate. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included calculating an exchange rate between geographic areas in order to achieve the above mentioned advantage.

With respect to claim 8, Brizendine further teaches crediting a third loyalty account (i.e. crediting an educational institution)(see Figure 14).

With respect to claim 9, Brizendine further teaches notifying at least one club member of second loyalty point account transfer (see Figure 14 of notification of amount withdrawn).

Claims 10 and 16 further recite the second loyalty account being associated with a government approved charity. Official Notice is taken that it is old and well known to have a list of government approved charities that the members can transfer money to. For example, Combined Federal Campaign (CFC) it is an authorized fundraiser of local and national charities that have met CFC guidelines and an easy way for federal employees to transfer certain payroll amount to the charities of their choice. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the second loyalty account being associated with a government approved charity in order to obtain the above mentioned advantages.

Claim 12 further recites determining if said loyalty points of said first member is below a threshold amount. Official Notice is taken that it is old and well known to determine if a member amount is below a threshold amount in order to approve or disapprove a withdrawal. For example, banks and the like will not allow an account holder to have a balance below a threshold amount in order to maintain a free checking account. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included determining if said loyalty points of said first member is below a threshold amount in order to determine if the member qualifies for certain services.

Claim 13 further recites determining if said loyalty points of said first member has been inactive for a certain time period. Official Notice is taken that it is old and well known to determine if a member amount has been inactive for a certain period of time. For example, loyalty programs and the like will track if a user is not redeeming points or the like in order to determine if the user should receive additional points/incentives/coupons. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included determining if said loyalty points of said first member has been inactive for a certain time period in order to determine if the member's account should be closed.

With respect to claim 18, Scroggie further teaches redeeming loyalty points in a predetermined geographic area (col. 11, lines 57-65). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included redeeming the points/incentives in a particular geographic location in order to promote purchase at a particular retailer. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included teaches redeeming loyalty points in a predetermined geographic area in order to obtain the above mentioned advantage.

With respect to claim 21, Brizendine further teaches informing a consumer of said transfer of loyalty points in real-time at a point of sale (Figure 10).

#### **Response to Arguments**

5. The 101 rejection has been withdrawn based on the claim amendment.
6. The double patenting has been withdrawn based on Applicant's comments and remarks.
7. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Applicant argues that Scroggie doesn't teach "loyalty points" the Examiner wants to point out that Brizendine was the reference cited for teaching loyalty points.

Scroggie was merely cited to teach geographic area offers/incentives. Brizendine teaches loyalty points and Scroggie teaches geographic offers/incentives, combining Brizendine and Scroggie would provide loyalty points that are exercisable in a particular geographic area and will therefore will allow the customers the convenience of receiving points that are redeemable where they reside. Therefore the combination of the references teach the claimed invention.

**Conclusion**

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Point of contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James w. Myhre can be reached on (571)272-6722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raquel Alvarez/  
Primary Examiner, Art Unit 3688

Raquel Alvarez  
Primary Examiner  
Art Unit 3688

R.A.  
3/6/2009